

1 HB24
2 208571-3
3 By Representatives Brown (K) and Pettus
4 RFD: Public Safety and Homeland Security
5 First Read: 11-JAN-22

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8 SYNOPSIS: Under existing law, a person is prohibited
9 from using a wireless telecommunications device to
10 write, send, or read a text-based communication
11 while operating a motor vehicle, with exceptions.

12 This bill would prohibit a person from
13 watching, viewing, recording, or capturing a
14 photograph or video while operating a motor
15 vehicle; would prohibit a person from physically
16 holding a wireless telecommunications device while
17 operating a motor vehicle; and would prohibit a
18 person from engaging in a voice-based communication
19 while operating a motor vehicle, with exceptions to
20 the prohibitions.

21 This bill would also further for the
22 criminal penalties associated with a violation.

23 Under existing law, a conviction for using a
24 wireless telecommunications device to write, send,
25 or read a text-based communication is a two-point
26 violation on the individual's driving record.

1 This bill would provide that on a third or
2 subsequent conviction the individual would receive
3 a three-point violation on the individual's driving
4 record.

5 Amendment 621 of the Constitution of Alabama
6 of 1901, now appearing as Section 111.05 of the
7 Official Recompilation of the Constitution of
8 Alabama of 1901, as amended, prohibits a general
9 law whose purpose or effect would be to require a
10 new or increased expenditure of local funds from
11 becoming effective with regard to a local
12 governmental entity without enactment by a 2/3 vote
13 unless: it comes within one of a number of
14 specified exceptions; it is approved by the
15 affected entity; or the Legislature appropriates
16 funds, or provides a local source of revenue, to
17 the entity for the purpose.

18 The purpose or effect of this bill would be
19 to require a new or increased expenditure of local
20 funds within the meaning of the amendment. However,
21 the bill does not require approval of a local
22 governmental entity or enactment by a 2/3 vote to
23 become effective because it comes within one of the
24 specified exceptions contained in the amendment.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 Relating to motor vehicles; to amend and renumber
4 Sections 32-5A-351 and 32-5A-352, Code of Alabama 1975, and to
5 add Sections 32-5A-353 to 32-5A-358, inclusive, to the Code of
6 Alabama 1975, to provide prohibitions on the use of a wireless
7 telecommunications device while operating a motor vehicle,
8 with exceptions; to further provide criminal penalties; to
9 repeal Section 32-5A-350, Code of Alabama 1975; and in
10 connection therewith would have as its purpose or effect the
11 requirement of a new or increased expenditure of local funds
12 within the meaning of Amendment 621 of the Constitution of
13 Alabama of 1901, now appearing as Section 111.05 of the
14 Official Recompilation of the Constitution of Alabama of 1901,
15 as amended.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 32-5A-353 to 32-5A-358,
18 inclusive, are added to Article 16 of Chapter 5A of Title 32,
19 Code of Alabama 1975, to read as follows:

20 §32-5A-353.

21 This article shall be known and may be cited as CiCi
22 and Jay's Law.

23 §32-5A-354.

24 As used in this article, the following words shall
25 have the following meanings:

26 (1) TEXT-BASED COMMUNICATION. The term includes, but
27 is not limited to, a text message, instant message, e-mail, or

1 Internet data communicated through a wireless
2 telecommunications device.

3 (2) UTILITY SERVICES. Electric, natural gas, water,
4 wastewater, cable, telephone, or telecommunications services
5 or the repair, location, relocation, improvement, or
6 maintenance of utility poles, transmission structures, pipes,
7 wires, fibers, cables, easements, rights-of-way, or associated
8 infrastructures.

9 (3) WIRELESS TELECOMMUNICATIONS DEVICE. A cellular
10 telephone, text-messaging device, personal digital assistant,
11 standalone computer, or any other wireless device that is used
12 to initiate or receive a wireless communication with another
13 person. The term does not include a radio, citizens band
14 radio, citizens band radio hybrid, commercial two-way radio
15 communication device or its functional equivalent,
16 subscription-based emergency communication device, prescribed
17 medical device, amateur or ham radio device, or in-vehicle
18 security, navigation, or remote diagnostic system.

19 §32-5A-355.

20 Except as provided in Section 32-5A-356, a person
21 may not operate a motor vehicle on a public road, street, or
22 highway while doing any of the following:

23 (1) Using a wireless telecommunications device to
24 write, send, read, or otherwise engage in a text-based
25 communication.

26 (2) Watching, recording, or capturing a photograph
27 or video.

1 (3) Using a handheld wireless telecommunications
2 device to engage in a voice-based communication.

3 (4) Physically holding or otherwise supporting with
4 any part of his or her body a wireless telecommunications
5 device.

6 §32-5A-356.

7 The following uses of a wireless telecommunications
8 device are not subject to the restrictions of this article:

9 (1) The use of a wireless telecommunications device
10 to obtain emergency services, including, but not limited to,
11 an emergency call to a law enforcement agency, health care
12 provider, fire department, or other emergency services agency
13 or entity.

14 (2) The use of a wireless telecommunications device
15 while the motor vehicle is parked on the shoulder of the
16 highway, road, or street.

17 (3) The use of a wireless telecommunications device
18 as a global positioning or navigation system to receive
19 driving directions; provided, however, the manual input of
20 navigation coordinates while operating a motor vehicle is a
21 violation of this article.

22 (4) The use of an earpiece, a headphone device,
23 steering wheel controls, speaker phone or any voice-activated
24 technology, or other device worn on the person or mounted onto
25 the dashboard, center console, windshield, or other part of
26 the vehicle to conduct substantially hands-free voice-based
27 wireless communications.

1 (5) The use of a continuous recording device that
2 operates within or outside the vehicle, including, but not
3 limited to, a dash camera or backup camera.

4 (6) The use of a wireless telecommunications device
5 by an employee or contractor of a utility services provider
6 within the scope of his or her employment while responding to
7 a utility emergency or performing other critical utility
8 services.

9 (7) The use of a wireless telecommunications device
10 by a law enforcement officer, emergency medical services
11 personnel, ambulance operator, firefighter, volunteer
12 firefighter, or other similarly employed public safety first
13 responder during the performance of his or her official
14 duties.

15 (8) The use of an ignition interlock device, as
16 defined in Section 32-5A-191.4.

17 (9) For an individual 18 years of age or older, the
18 use of a wireless telecommunications device in a manner that
19 requires the physical use of the individual's hand while
20 operating a motor vehicle if both of the following occur:

21 a. The device is mounted to the vehicle, including
22 the windshield, dashboard, or center console of the vehicle,
23 and the device does not create an unsafe obstruction of the
24 person's view of the road.

25 b. The individual's hand is used to activate or
26 deactivate a feature or function of the device with the motion
27 of one swipe or tap of the individual's finger, and the swipe

1 or tap does not activate the camera, video, or gaming features
2 or functions for viewing, recording, amusement, or other
3 non-navigational functions, other than functions or features
4 related to the transportation of persons or property for
5 compensation or payment of a fee.

6 (10) The use of a wireless telecommunications device
7 by a licensed physician while responding to an emergency
8 medical situation.

9 (11) The use of a wireless telecommunications device
10 while the vehicle is not in motion.

11 §32-5A-357.

12 (a) A law enforcement officer enforcing this article
13 may treat a violation of the article as the primary or sole
14 reason for issuing a citation to the operator of a motor
15 vehicle.

16 (b) A law enforcement officer enforcing this article
17 may not search a motor vehicle or the operator or passenger of
18 the motor vehicle solely because of a violation of this
19 article.

20 (c) A law enforcement officer may not use a
21 violation of this article to establish probable cause for any
22 other violation.

23 §32-5A-358.

24 (a) A person who violates Section 32-5A-355 is
25 guilty of a traffic infraction and is subject to the following
26 fines:

1 (1) For a first violation, a fine of one hundred
2 dollars (\$100).

3 (2) For a second violation, a fine of two hundred
4 dollars (\$200).

5 (3) For a third or subsequent violation, a fine of
6 three hundred dollars (\$300).

7 (b) No court costs may be imposed solely in
8 connection with the prosecution of a violation of this
9 article.

10 Section 2. Sections 32-5A-351 and 32-5A-352, Code of
11 Alabama 1975, are amended and renumbered to read as follows:

12 "~~§32-5A-351.~~ §32-5A-359.

13 "(a) A first or second conviction of this article
14 Section 32-5A-355 shall be entered on the driving record of
15 any the individual charged under this article as a two-point
16 violation.

17 "(b) A third or subsequent conviction of Section
18 32-5A-355 shall be entered on the driving record of the
19 individual charged as a three-point violation.

20 "~~§32-5A-352.~~ §32-5A-360.

21 "(a) In any case brought by a law enforcement
22 officer employed by the ~~Department of Public Safety~~ Alabama
23 State Law Enforcement Agency, all fines shall be allocated to
24 the State General Fund.

25 "(b) Each state, county, and municipal law
26 enforcement agency shall maintain statistical information on
27 all traffic stops made pursuant to this article, including

1 traffic stops made on minority groups, and shall report that
2 information on a monthly basis to the ~~Department of Public~~
3 ~~Safety~~ Alabama State Law Enforcement Agency."

4 Section 3. Section 32-5A-350, Code of Alabama 1975,
5 is repealed; provided, a violation or offense committed prior
6 to the repeal of this section pursuant to this act is not
7 affected by the repeal of that section, and any prosecution or
8 proceeding for any violation of that section pending on the
9 effective date of this act shall proceed as if the section was
10 not repealed.

11 Section 4. Although this bill would have as its
12 purpose or effect the requirement of a new or increased
13 expenditure of local funds, the bill is excluded from further
14 requirements and application under Amendment 621, now
15 appearing as Section 111.05 of the Official Recompilation of
16 the Constitution of Alabama of 1901, as amended, because the
17 bill defines a new crime or amends the definition of an
18 existing crime.

19 Section 5. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.